

Exhibit 11

ROWLAND MARCUS ANDRADE
9414 Plaza Point Drive
Missouri City, Texas 77459 USA

In Pro Se

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE PARCEL OF REAL PROPERTY
LOCATED AT 9414 PLAZA POINT DRIVE,
MISSOURI CITY, TEXAS 77459,

Defendant.

ROWLAND MARCUS ANDRADE,

Claimant.

SOLMAZ ANDRADE,

Claimant.

WILMINGTON SAVINGS FUND SOCIETY,
FSB as trustee for IRP FUND II TRUST 2A,

Claimant.

Case No. 3:20-cv-2013-VC

**NOTICE OF MOTION AND MOTION OF
ROWLAND MARCUS ANDRADE FOR
SANCTIONS AND DISMISSAL UNDER
FEDERAL RULE OF CIVIL
PROCEDURE 11(C); MEMORANDUM
OF POINTS AND AUTHORITIES**

*Filed concurrently with DECLARATION OF
ROWLAND MARCUS ANDRADE; AND
[PROPOSED] ORDER*

Judge: Hon. Vince Chhabria

Trial Date: None Set

Hearing Date: August 13, 2020, 10:00 a.m.

TO UNITED STATES OF AMERICA AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on August 13, at 10:00 a.m., or as soon thereafter as
counsel may be heard, in the courtroom of the Honorable Vince Chhabria, located in the United
States Courthouse, San Francisco Courthouse, Courtroom 4, Rowland Marcus Andrade will and
hereby does move this Court for SANCTIONS AND DISMISSAL UNDER FEDERAL RULE OF
CIVIL PROCEDURE 11(C).

I respectfully request that the Court sanction the United States for its violation of Fed. R. Civ. P. 11 by: (1) dismissing the Complaint with prejudice, and (2) awarding such monetary sanctions equal to all my legal fees as a result of this 2 year investigation, or as the Court deems appropriate. This Motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declaration of Rowland Marcus Andrade filed concurrently herewith, all of the pleadings, files, and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court prior to its ruling.

TABLE OF CONTENTS

INTRODUCTION.....	3
STATEMENT OF ISSUES PRESENTED	5
STATEMENT OF FACTS.....	5
A. The Invention and Development of AML Bitcoin	5
B. The Japheth Dillman/VICTIM ONE AML Bitcoin Token Transactions.....	8
C. Jack Abramoff and His Associates' Extortionate Scheme	11
ARGUMENT	13
A. There is no evidentiary basis for the government's claims that the allegedly fraudulent statements in the Complaint are false.....	14
1. The alleged statements made regarding development of AML Bitcoin were true.	15
2. The allegedly fraudulent statements regarding the use of VICTIM ONE's funds are disproven by the contracts governing his AML Bitcoin Token purchases.	17
3. The allegedly fraudulent statements made regarding business arrangements with governments and ports were true to my knowledge, not fraudulent.	18
B. There is no evidentiary basis specifically for any scheme to defraud VICTIM ONE based on undisputed evidence that has been known to the government.	19
C. There is no evidentiary basis for the Complaint's allegations that the Defendant Property was purchased with proceeds from fraud, or as part of a money laundering scheme.	21
D. The government should be sanctioned, and the appropriate sanction is dismissal with prejudice, enjoining the government from filing additional actions against me without leave of court, and an appropriate monetary award.	23
CONCLUSION	25

TABLE OF AUTHORITIES

Cases

<i>Christian v. Mattel, Inc.</i> , 286 F.3d 1118 (9th Cir. 2002)	13
<i>Road & Highway Builders v. N. Nev. Rebar</i> , 284 P.3d 377 (Nev. 2012)	17
<i>United States v. Brugnara</i> , 856 F.3d 1198 (9th Cir. 2017)	15
<i>United States v. Jinian</i> , 725 F.3d 954 (9th Cir. 2013)	15
<i>United States v. Miller</i> , 953 F.3d 1095 (9th Cir. 2020)	19
<i>Willis v. City of Oakland</i> , 231 F.R.D. 597 (N.D. Cal. 2005)	24

Statutes

18 U.S.C. § 1343	14
18 U.S.C. § 981	3

Rules

Fed. R. Civ. P. 11	5, 13
Fed. R. Civ. P. 11(c)(2)	4

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

The United States has instituted this civil forfeiture action, seeking to confiscate my residence in Texas, based on factual allegations that lack evidentiary support and that cannot support a claim for civil forfeiture under 18 U.S.C. § 981. Specifically, the government alleges that I and my property are involved in wire fraud and/or money laundering committed primarily by an individual identified as J.D., in connection with his solicitation of an individual identified as VICTIM ONE to invest in the cryptocurrency business I created and invented called AML Bitcoin. But the government’s Complaint lacks evidentiary support and a legal basis in three critical ways: (1) the government cannot provide evidence that any of the statements it alleges in the Complaint to be fraudulent are fraudulent,, because they are in fact true; (2) the government cannot demonstrate any specific intent to defraud, because I wasn’t aware of VICTIM ONE when he made the purchases the government alleges to have been induced by fraud; and (3) the government cannot trace the proceeds of any alleged fraud to the defendant property.

1 AML Bitcoin, the cryptocurrency at the heart of the government's Complaint, is a
2 legitimate, honest cryptocurrency built on technology I invented and for which I obtained a
3 portfolio of patents, duly examined and issued by the United States Patent Office. The United
4 States government should be thanking me for inventing it rather than attempting to punish me
5 through civil forfeiture. The technology contains innovative biometric capabilities helpful to
6 prevent the types of theft and illicit use of cryptocurrency to which other digital currencies are
7 susceptible. After a reasonable development period during which my company, NAC Foundation,
8 LLC ("NAC"), sold millions of AML Bitcoin Tokens, NAC released the full-featured AML
9 Bitcoin product with our unique security features. That release occurred in April 2020, and users
10 are now able to trade in the full-featured AML Bitcoin. Each of the government's factual
11 allegations of fraud are based on the false premise that AML Bitcoin does not have technology. As
12 the exhibits attached to this motion demonstrate, AML Bitcoin is not a scam and is a legitimate
13 technology.

14 In fact, the events alleged in the Complaint were part of a scheme by disgraced lobbyist
15 and convicted felon Jack Abramoff to extort me into selling my business interests and intellectual
16 property. The "J.D." identified in the Complaint is Japheth Dillman, an associate of Abramoff's
17 whom I hired as a "Chief Strategy Officer" at Abramoff's request. After initially gaining my trust
18 by offering to help my company develop business partnerships with influential United States and
19 foreign politicians, Abramoff attempted to force me to sell my business to a group of his
20 associates for \$100 million, as part of which Abramoff would receive a \$40 million "finder's fee,"
21 starting in October 2018. Three days after I conclusively turned down Abramoff's offer on August
22 12, 2019, the IRS began its audit of my business. In the next few weeks, Abramoff's business
23 associate David Cohen sent multiple threatening letters indicating that if I did not agree to the
24 deal, the government would commence civil forfeiture proceedings against me and my business in
25 order to destroy my business, which is exactly what has happened by virtue of the government
26 filing its civil forfeiture Complaint. In view of Abramoff's threats and as explained in more detail
27 below, the actions alleged in the Complaint were performed by Dillman to create an artificial and
28 frivolous civil forfeiture claim against me.

1 I served the present motion on the government on June 12, 2020, allowing the government
 2 the full 21 days permitted by Fed. R. Civ. P. 11(c)(2) to either withdraw the Complaint or to
 3 explain its evidentiary basis for the Complaint. The government did neither. I therefore am filing
 4 this motion for sanctions asking the Court to order that the Complaint be dismissed with prejudice
 5 as a sanction for the government's failure to produce evidence supporting its Complaint and to
 6 conduct a reasonable investigation before filing its Complaint, and that the Court enjoin the
 7 government from filing additional civil or criminal complaints against me, my business, or my
 8 property without leave of court.

9 **STATEMENT OF ISSUES PRESENTED**

- 10 1. Did the Plaintiff United States conduct a reasonable inquiry under the circumstances and
 11 have evidentiary support for its factual contentions before filing the Complaint in this civil
 12 forfeiture action?
- 13 2. What is the appropriate sanction under Fed. R. Civ. P. 11 for the government's
 14 misconduct?

15 **STATEMENT OF FACTS**

16 **A. The Invention and Development of AML Bitcoin**

17 Cryptocurrency has developed into a major industry since its invention in 2008 and
 18 subsequent creation of the original cryptocurrency, Bitcoin. Cryptocurrencies are, as the Ninth
 19 Circuit has described them, "a form of digital currency based on mathematical algorithms that is
 20 not controlled by any country, bank, or individual." *United States v. Costanzo*, 956 F.3d 1088,
 21 1088 (9th Cir. 2020). Because Bitcoin operated through a distributed system outside the control of
 22 governments or banks, and by its design is pseudonymous, many of the early uses of Bitcoin were
 23 for illicit transactions. *See* Declaration of Rowland Marcus Andrade in Support of his Motion for
 24 Sanctions ("Andrade Decl."), Ex. 4 at 15 (AML Bitcoin Original White Paper). Cryptocurrencies
 25 also became attractive targets for hackers and thieves, as hundreds of millions of dollars of
 26 Bitcoins were stolen from several companies from 2014-2016. *Id.* at 15-16.

27 In response to the market's need for a more secure cryptocurrency, I developed methods
 28 for securing cryptocurrency with biometric data. I began developing cryptocurrency with anti-

1 money-laundering (AML) security features in 2012, and formed NAC Foundation, LLC in 2014.
 2 Andrade Decl. at ¶ 2. Using some of my proprietary technology, I developed the Aten Coin, a
 3 digital currency designed to be compliant with anti-money-laundering and anti-terrorist
 4 regulations and to be theft-resistant. Andrade Decl. at ¶ 4, Ex. 4 at 2. NAC officially launched
 5 Aten Coin publicly on September 21, 2015, selling about nine million Aten Coins. *Id.* My first
 6 compliant digital currency patent was filed in March 3, 2015 in Europe which gives a deep
 7 understanding of the technology. Andrade Decl. at ¶ 5. The government has in its possession the
 8 original source code for the AtenCoin.

9 I then sought to improve on the Aten Coin with AML Bitcoin, a cryptocurrency with
 10 updated protocols still possessing some of the unique biometric and security features I invented. I
 11 have obtained seven United States patents on the methods I invented, U.S. Patents Nos. 9,985,964,
 12 10,116,657, 10,182,051, 10,298,571, 10,298,572, 10,389,713, and 10,484,178, with other
 13 applications still pending, as well as many related patents in other countries; dating back to an
 14 earliest filing date in March 2016. Andrade Decl. at ¶ 5. These patents are licensed to NAC for use
 15 in the AML Bitcoin system. *Id.* The government has a copy of the licensing agreement. NAC
 16 Foundation, LLC also had contracts with several ID Verification companies, such as Jumio Corp.
 17 Andrade Decl., Ex. 1. NAC also has and had multiple contracts to provide transaction monitoring
 18 for suspicious activity using my technology with, among others, GlobalVision Systems, Inc. and
 19 ComplyAdvantage. Andrade Decl., Exs. 2 and 3. NAC also started building its own internal
 20 transaction monitoring system called DetectM, and finalized its own ID verification system called
 21 the VIN system, which is operational now as part of AML Bitcoin. Andrade Decl. at ¶ 9.

22 While AML Bitcoin was in development, I held an initial coin offering (“ICO”) of AML
 23 Bitcoin Tokens in October 2017. Andrade Decl. at ¶¶ 10, 12. AML Bitcoin Tokens did not have
 24 the intended security features that the AtenCoin had, and that the AML Bitcoin currently has in
 25 place. The AML Bitcoin Tokens existed as a placeholder to allow users to begin using NAC’s
 26 products while AML Bitcoin was in development. Andrade Decl. at ¶ 11, Ex. 5. During the ICO,
 27 NAC issued millions of AML Bitcoin Tokens between October 2017 and February 2018, at prices
 28 of \$1.00 to \$1.50 per AML Bitcoin Token. Andrade Decl. at ¶ 12.

1 During the development cycle, I worked tirelessly to get the AML Bitcoin Token listed on
 2 public exchanges to allow users to buy and sell openly. I received assurances from public
 3 cryptocurrency exchange HitBTC in November of 2017 that AML Bitcoin Tokens would be listed
 4 on their exchange in a few months, but that listing got delayed due to concerns about general
 5 United States cryptocurrency regulations outside my control. Andrade Decl. at ¶ 13. I paid the
 6 listing fees to HitBTC in October 2017. Andrade Decl., Ex. 6. On September 13, 2018, HitBTC
 7 began listing the AML Bitcoin Token.

8 I continued developing AML Bitcoin technology throughout 2018 and 2019, making
 9 steady progress. Andrade Decl. at ¶ 15. To the extent the launch of AML Bitcoin was delayed,
 10 much of that delay was caused by the government's improper investigation into AML Bitcoin. The
 11 government (through FBI Agent Rohan Wynar) was aware in 2018 through a recorded call with
 12 Richard Naimer (which the government and myself have in our possession,) about the ID
 13 Verification System that NAC was funding. Andrade Decl. at ¶ 16. The government then started
 14 harassing many AML Bitcoin supporters and financial backers of the project. Andrade Decl. at ¶
 15 17. Federal agents then intimidated AML Bitcoin customers to find someone who would support
 16 their false narrative that I was somehow involved in fraud. Andrade Decl. at ¶ 17. These agents'
 17 investigation and harassment resulted in people quitting the project and mounting legal fees.

18 Although the actions of the agents delayed the AML Bitcoin project, the public beta testing
 19 of the AML Bitcoin technology commenced in November 2019. Andrade Decl. at ¶ 19.
 20 Information regarding how to operate the AML Bitcoin during the beta test was publicly available
 21 through NAC's public YouTube channel, posted on November 26, 2019, at
 22 <https://www.youtube.com/watch?v=ztwyqpmlSzU>. One of the videos uploaded on November 26,
 23 2019, titled "How to Verify Your Identity with the Virtual Identity Network (VIN) System
 24 Through AMLWallet.com," discusses how to use the identity verification system unique to AML
 25 Bitcoin. A list of videos is available at www.amlbitcoinvideos.com. Andrade Decl. at ¶ 19. The
 26 video titled "Aten Black Gold Coin System Functionality-- AML BitCoin's Pioneer Coin"
 27 includes proof that the Aten Coin technology was completed in August 16, 2015. Andrade Decl. at
 28

¶ 20. On April 12, 2020, AML Bitcoin launched, and AML Bitcoin Token holders were able to exchange their tokens for AML Bitcoins on a 1:1 exchange basis. Andrade Decl. at ¶ 21.

B. The Japheth Dillman/VICTIM ONE AML Bitcoin Token Transactions

I had a brief business relationship with an individual named Japheth Dillman, whom I believe to be the “J.D.” identified in the Complaint, in 2017. Andrade Decl. at ¶ 22. In 2017, famous lobbyist and convicted felon Jack Abramoff came to me offering to help develop AML Bitcoin partnerships with government officials. Andrade Decl. at ¶ 22. As part of his assistance, Abramoff encouraged me to hire Dillman, one of his associates, as a “Chief Strategy Officer.” Andrade Decl. at ¶ 23. NAC proceeded to hire Dillman as its Chief Strategy Officer in a letter dated September 24, 2017. Andrade Decl., Ex. 10. His duties were not to sell AML Bitcoin Tokens, but to generate publicity and marketing strategies including a developing partnership with the Port of San Francisco, foreign governments, and Silicon Valley tech companies. *Id.* at Addendum A. He never performed those duties, and I later terminated his involvement with the project in December 2018. Andrade Decl. at ¶ 24.

In January 2018, a company named Block Bits Capital, LLC (“Block Bits”) owned by J.D., Jack Abramoff, and their associates, purchased AML Bitcoin Tokens directly from NAC as part of the initial sale (the ICO) of AML Bitcoin Tokens. Distribution statements show purchases of AML Bitcoin Tokens for Block Bits Capital LLC. *Compare* Andrade Decl., Ex. 11 to Complaint at ¶ 10. I never knew that “VICTIM ONE”—an individual I now know to be Benjamin Boyer—was the source of the funds. Andrade Decl. at ¶ 26. Dillman’s own email to me regarding the purchase states that Block Bits is the purchaser and never mentions Boyer/VICTIM ONE. Andrade Decl., Ex. 12. I only learned of Boyer’s involvement in October of 2018 when Block Bits contacted me and brokered the purchase of AML Bitcoin Tokens through a purchase agreement where Boyer/VICTIM ONE and I never spoke. Distribution Statements for Block Bits indicate that the transactions referred to in the Complaint were payments from Boyer to Block Bits, not to NAC. Andrade Decl., Ex. 16. The corresponding transactions strongly indicate that the individual identified in the Complaint as “VICTIM ONE” is Benjamin Boyer.

1 In order to make each purchase of AML BitCoin Tokens directly from me in October
2 2018, Boyer had to read and agree to the terms and conditions listed on AML BitCoin's website
3 prior to downloading a digital currency wallet (Dkt. No. 18, Ex. J), and sign a purchase agreement
4 setting out the terms of the sale (Andrade Decl., Ex. 17). I never made any representations to
5 Boyer about what he was buying because I never spoke to him. Andrade Decl. at ¶ 32.

6 On June 9, 2019, Boyer revealed to me that he had an agreement between himself and
7 Dillman. They created Block Bits AML Holdings which was a Delaware Limited Liability
8 Company formed by an agreement effective January 11, 2018. Andrade Decl., Ex. 21. Though the
9 copy of the Block Bits AML Holding Company Agreement in my possession does not include an
10 identification of the members, it does state that Dillman is the "partnership representative"
11 authorized to represent Block Bits. Andrade Decl., Ex. 21 at Section 9.9. I do not know the exact
12 membership of Block Bits AML Holdings, other than that Dillman was the Managing Director &
13 Founder, and that Boyer contributed the capital to purchase AML Bitcoin Tokens. I do know,
14 however, that Abramoff and his associates had set up a related company, Block Bits Fund I, L.P.,
15 that was funded in large part by Abramoff, his associates, and his shell company Landfair Capital
16 Consulting, Inc. Dkt. No. 31, Ex. G.

17 Dillman informed me on January 14, 2018, that Block Bits Capital, LLC (a separate
18 company from Block Bits AML Holdings, of which Boyer was a member) intended to put in an
19 order for \$50 million of AML BitCoin, and was sending an initial wire of \$850,000 as part of that
20 purchase. Andrade Decl., Ex. 12. After purchasing over \$1.4 million in AML Bitcoin Tokens
21 through Block Bits Capital as purchaser, as part of the ICO in January 2018, Dillman informed me
22 that Block Bits Capital was unable to raise and invest the remainder of the intended \$50 million.
23 Andrade Decl., Ex. 14. In his letter notifying me of the inability to complete the \$50 million
24 purchase, Dillman makes no reference to the fact that he and Boyer created Block Bits AML
25 Holdings, and in fact makes no reference to Boyer at all. *Id.*

26 Boyer later told me in mid-2019 that a few months earlier, in late 2018, the government
27 told him that AML Bitcoin was a scam. Andrade Decl., Ex. 22. Instead of contacting me directly
28 about the government's allegations, he contacted Dillman and fellow Block Bits AML Holdings

1 member David Mata. Andrade Decl. at ¶ 38. Dillman then entered into an agreement with Boyer
2 to buy him out without my knowledge. Andrade Decl. at ¶ 39. According to their agreement, the
3 buyout was supposed to happen on January 9, 2019. Andrade Decl. at ¶ 39.

4 Dillman and Boyer then had an apparent falling out. Dillman had agreed to purchase the
5 AML Bitcoin Tokens in Block Bits AML Holding's possession (which included more than just the
6 January 2018 purchases) for about \$3 million. Andrade Decl. at ¶ 40. As discussed previously, the
7 purchases of the tokens from NAC's position were from Block Bits Capital and not from Block
8 Bits AML Holdings, their equity fund. Andrade Decl. at ¶ 40. I knew nothing about the equity
9 fund or who was involved with it. Andrade Decl. at ¶ 43. However, Dillman failed to pay Boyer
10 any of the promised money for the tokens. Andrade Decl. at ¶ 40. Boyer accordingly filed a
11 lawsuit against Dillman for breach of contract in the Superior Court of California for the County
12 of San Francisco on April 10, 2019, Case No. CGC-19-575158. Andrade Decl., Ex. 23. Dillman
13 never responded to that complaint, and Boyer obtained a default judgment against Dillman for
14 \$3,103,674.63 on June 19, 2019. Andrade Decl., Ex. 24.

15 Around late November 2018, I found out that Dillman and his partner David Mata were
16 allegedly making false misrepresentations to people when brokering the sale of AML Bitcoin
17 Tokens. Andrade Decl. at ¶ 33. When I learned of this issue in late 2018, our compliance attorney
18 Chris Ray reached out to Boyer, Dillman, and Mata. Andrade Decl. at ¶ 33. Ray sent Boyer an
19 email asking him to contact Ray. Andrade Decl., Ex. 18. My staff followed up on that email to
20 inform Boyer that Ray's job was to ensure that all the information he received from his client
21 representative was true and accurate. Andrade Decl., Ex. 18. Shortly thereafter, David Mata, now
22 representing himself as the Managing Director of Block Bits Capital, informed me that Boyer had
23 already sold his AML Bitcoin Tokens to Dillman, and so would likely not respond to me or Ray.
24 *Id.*; *see also* Andrade Decl., Ex. 19. As a result of the information I learned from Mata and Ray
25 indicating that Mata and Dillman may have made false representations to Boyer, I tried to get
26 ahold of Boyer to offer him a full refund of his direct purchases in December of 2018 and in
27 January 2019, and informed Mata and Dillman that I would no longer do any business with Block
28

1 Bits. Andrade Decl., Ex. 20. Neither Mata, Dillman, nor Boyer responded to that email for
 2 months. Andrade Decl. at ¶ 35.

3 In May 2019, after Boyer filed his lawsuit against Dillman but before he obtained his
 4 default judgment, Boyer responded to me to say that Dillman had instructed him in
 5 November/December of 2018 not to talk to me or anyone from NAC. Andrade Decl., Ex. 25.
 6 Boyer asked in the email what J.D.'s role was with AML Bitcoin and what the state of AML
 7 Bitcoin's development was. *Id.* I explained that I had previously tried to reach out to him, and
 8 would be willing to arrange a call with him through legal counsel to discuss these issues. *Id.*; *see*
 9 *also* Andrade Decl., Ex. 25. Boyer only reached out to me after Dillman violated his agreement by
 10 failing to pay Boyer as he had promised. I was not a part of and had no knowledge of what was
 11 going on between Boyer, Dillman, and Mata.

12 **C. Jack Abramoff and His Associates' Extortionate Scheme**

13 In 2018, I started to get concerned about Jack Abramoff's and Dillman's false promises.
 14 Dillman contacted me again in around March or April of 2018 and told me he could get the \$50
 15 million dollar AML Bitcoin Token purchase deal back but he needed to be compensated for his
 16 time. Andrade Decl. at ¶ 44. Specifically, Dillman asked me to pay him a percentage of what
 17 Block Bits Capital, LLC purchased in AML Bitcoin Tokens. Andrade Decl. at ¶ 44. After I
 18 refused to agree to that deal or pay his demanded percentage, Dillman continuously sent invoices
 19 over to me and my CPA. Andrade Decl. at ¶ 45. The invoices were from a different company
 20 name I had never saw before, called Janga. Andrade Decl. at ¶ 45. I continued to refuse to make
 21 Dillman's demanded payments. Andrade Decl. at ¶ 45.

22 Jack Abramoff then contacted me and told me that Dillman was going to set up a meeting
 23 between me and the Port of San Francisco commissioner Leslie Katz, and California's Lieutenant
 24 Governor Gavin Newsom. Andrade Decl. at ¶ 46. The meeting with Lt. Governor Newsom
 25 occurred on April 26, 2018. Andrade Decl., Ex. 26. Abramoff and Dillman informed me that a
 26 deal was in progress with the Port of San Francisco. Andrade Decl. at ¶ 47. Abramoff insisted that
 27 unless I pay Dillman the money he requested, that nothing would be done with the governor and
 28 nothing with the Port. Andrade Decl. at ¶ 47. I was informed the State of California wanted to

1 utilize our technology so they could start taxing marijuana (which had been legalized by the State
2 of California for recreational use starting January 1, 2018, but remains illegal under federal law),
3 and needed the AML Bitcoin technology because the federal government could crack down on
4 FDC supported banks. Andrade Decl. at ¶ 48. The meeting with the Port of San Francisco took
5 place on Friday April 27th, 2018. Andrade Decl., Ex. 27. Then, on April 28th, 2018, I had another
6 conversation with Abramoff, in which he persuaded me to pay Dillman or I would lose the deal
7 with the Port of San Francisco, various other ports in California, and with the State of California.
8 Andrade Decl. at ¶ 50. I paid Dillman 450 ethereum (at an approximate market value of \$680 per
9 ethereum around April 28, 2018, for a total value of around \$300,000), knowing he had just put
10 me in front of the soon to be elected Governor. Andrade Decl. at ¶ 50. Interestingly, David Mata
11 called me weeks later he hesitantly told me he wanted a percentage of what BlockBits brought in
12 as well. Andrade Decl. at ¶ 51. I told Mata I already paid it. Andrade Decl. at ¶ 51.

13 Around December of 2018, my relationship with Jack Abramoff began to deteriorate. By
14 that point, I had been in discussions with him for almost 2 years in which he made many promises
15 concerning contacts he could make for me, but he never delivered results. Andrade Decl. at ¶ 52.
16 Things got worse when I loaned Richard Naimer, a very close associate of Jack Abramoff, over
17 \$700,000 in the fall of 2018 in consideration of receiving shares in his company, DIT Network.
18 Andrade Decl. at ¶ 52. Naimer refused to pay me back or give me my shares in the company.
19 Andrade Decl. at ¶ 52. Naimer hired an attorney to draft a formal loan agreement between his
20 entity, DIT, and my company, NAC, memorializing the terms of the loan. Andrade Decl., Ex. 28.
21 When it became evident that Naimer wouldn't be making his payments, I broke off business
22 relations with him. Andrade Decl., Ex. 29.

23 After that, Abramoff and Naimer demanded that I sign over the rights to my technology
24 in order for me to receive the shares in DIT Network I was already entitled to. In January 2019, I
25 was woken up around 5.a.m with a call from Naimer, and he told me that the agreement had to be
26 signed and sent back at that very moment knowing I was up working until around 3 a.m. Andrade
27 Decl. at ¶ 54, Ex. 30. Throughout the rest of 2019, Jack Abramoff continued in his efforts to extort
28 me of my technology by making his contacts in my network threaten me in order to convince me

1 to agree to give him a 40% brokerage fee for selling my technology to an undisclosed buyer. Jack
2 Abramoff also contacted J.D. and his partner David Mata.

3 These demands culminated in threats that if I did not agree to Abramoff's deal, civil
4 forfeiture actions would be brought against me and my company. As explained previously in my
5 Motion to Preserve Evidence (Dkt. No. 31), shortly after I refused Abramoff's offer, his associate
6 David Cohen sent an email on August 20, 2018, threatening that if I passed on the deal, "you can
7 imagine on your own the possible bad outcomes several of which I have listed at the bottom of
8 this email in blue." Dkt. No. 31 at 4. The bad outcomes listed included civil forfeiture actions
9 brought against me and my company. *Id.* In case that threat were not clear enough, Cohen sent
10 another email eight days later threatening more explicitly that if I did not accept the deal, the
11 government would begin an asset forfeiture proceeding against me, and the business would be
12 dead. *Id.*

13 ARGUMENT

14 Federal Rule of Civil Procedure 11 requires that a person, by presenting to the court a
15 complaint or other pleading and signing that pleading, certify that "to the best of the person's
16 knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . .
17 . the allegations and other factual contentions have evidentiary support or, if specifically so
18 identified, are likely to have evidentiary support after a reasonable opportunity for further
19 investigation or discovery." When a complaint is the focus of Rule 11 proceedings, the Court
20 "must conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually
21 'baseless' from an objective perspective, and (2) if the attorney has conducted 'a reasonable and
22 competent inquiry' before signing and filing it." *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127
23 (9th Cir. 2002).

24 Here, the evidence presented below demonstrates that the government did not have
25 evidentiary support for the key factual allegations in the Complaint, and could not have conducted
26 a "reasonable and competent inquiry" before filing the Complaint; and the law enforcement
27 agencies deliberately withheld exculpatory evidence from the Department of Justice attorney Chris
28 Kaltsas. Had the government conducted a reasonable and competent inquiry of me, AML Bitcoin,

1 and the NAC Foundation, it could not have believed that the allegedly fraudulent statements made
 2 that “the cryptocurrency was under development; that millions of tokens representing the
 3 cryptocurrency had been successfully sold; and that [VICTIM ONE’s] funds would be used to
 4 further the development of the cryptocurrency” were false; that AML Bitcoin’s development was
 5 “minimal and not progressing;” that “[t]o date, [I] and the NAC have not made any meaningful
 6 progress towards developing AtenCoin, AML Bitcoin, or ABTC,” or that any other statement
 7 alleged to be fraudulent by the Complaint was in fact fraudulent. Dkt. No. 1 at ¶¶ 9, 11, 16.

8 **A. There is no evidentiary basis for the government’s claims that the allegedly**
 9 **fraudulent statements in the Complaint are false**

10 The Complaint primarily alleges that I and/or my associates, primarily “J.D.” (presumably
 11 Dillman), induced “VICTIM ONE” (presumably Boyer) to invest in my cryptocurrency project
 12 through fraudulent statements, and thus that I committed, or at least benefitted from, wire fraud
 13 under 18 U.S.C. § 1343. The Complaint alleges that either I or J.D. made the following
 14 supposedly fraudulent statements:

- 15 • Undefined “materially false and misleading statements regarding the status of the
 16 development of the cryptocurrency and the use of funds raised from investors.” Complaint,
 ¶ 9.
- 17 • Undefined “false statements regarding business arrangements that [I] and [my] associates
 18 had purportedly made with government agencies and ports, falsely leading investors to
 19 believe [my] and [my] associates’ statements about the prospects of the AML Bitcoin
 20 cryptocurrency.” Complaint, ¶ 9.
- 21 • Statements made by J.D. in or around January 2018 that “the cryptocurrency was under
 22 development.” Complaint, ¶ 11.
- 23 • Statements made by J.D. in or around January 2018 that “millions of tokens representing
 24 the cryptocurrency had been successfully sold.” Complaint, ¶ 11.
- 25 • Statements made by J.D. in or around January 2018 that VICTIM ONE’s “funds would be
 26 used to further the development of the cryptocurrency.” Complaint, ¶ 11.
- 27 • Statements made by me in or around January 2018 that “the launch of the cryptocurrency
 28 was months away, notwithstanding that at the time of the statements development were
 [sic] minimal and not progressing.” Complaint, ¶ 11.

26 The government also alleges, underlying its claims that the above statements are fraudulent, that
 27 “To date, [I] and the NAC have not made any meaningful progress towards developing AtenCoin,
 28 AML Bitcoin, or ABTC.” Complaint, ¶ 16.

1 The elements of wire fraud under 18 U.S.C. § 1343 are: “(1) the existence of a scheme to
 2 defraud; (2) the use of wire, radio, or television to further the scheme; and (3) a specific intent to
 3 defraud.” *United States v. Jinian*, 725 F.3d 954, 960 (9th Cir. 2013). A “scheme to defraud,” under
 4 the wire fraud statute, is a “scheme to deprive another of money or property by means of false or
 5 fraudulent pretenses, representations, or promises.” *United States v. Brugnara*, 856 F.3d 1198,
 6 1207 (9th Cir. 2017). Thus, if the representations the government alleges that I or J.D. made in
 7 furtherance of the alleged “scheme to defraud” are in fact true, there can be no “scheme to
 8 defraud,” and thus no wire fraud.

9 1. **The alleged statements made regarding development of AML Bitcoin were**
 10 **true.**

11 AML Bitcoin was under development and making progress throughout 2018 and 2019,
 12 resulting in its full-featured launch in April 2020. Andrade Decl. at ¶¶ 15, 21. The software
 13 development for AML Bitcoin was not trivial, and over those two years our company made steady
 14 progress. Andrade Decl. at ¶ 15. To the extent there were delays, much of them were caused by
 15 the government investigation and interference in the business. Andrade Decl. at ¶¶ 15-17. AML
 16 Bitcoin did suffer a lot of financial setbacks as a result of this 2 year investigation, including over
 17 \$2 million dollars in expenses, fees, attorneys’ fees and debts. Andrade Decl. at ¶ 17. We lost our
 18 major developer Hung Tran of two years because the government investigation scared him into
 19 quitting in early 2019. Andrade Decl., ¶ 17, Ex. 9. Still, NAC’s public YouTube channel
 20 documents some of the improvements made over that time. In June 2018, AML Bitcoin Tokens
 21 were listed on several public digital currency exchanges, and a series of videos explains how to
 22 use each of those exchanges to trade AML Bitcoin. Andrade Decl. at ¶ 18. In 2017 to 2019, NAC
 23 was funding an ID Verification system that was going to be integrated into AML Bitcoin. Andrade
 24 Decl. at ¶ 9. The government knew this when they spoke to Richard Naimer in 2018 on a recorded
 25 call and he told them I was spending a few hundred thousand dollars each month in expenses
 26 towards developing biometric identification software. Andrade Decl. at ¶ 16.

27 In November 2019, the AML Bitcoin technology was ready for public beta testing;
 28 meaning the public could participate in its testing. Andrade Decl. at ¶ 19. And in April 2020, AML

1 Bitcoin was ready for public launch. Andrade Decl. at ¶ 21. All this information, except for the
 2 April 12, 2020 launch date, was publicly available and documents pertaining to such was in the
 3 governments hands prior to them filing the Complaint. The finalized Aml Bitcoin is now listed on
 4 Lbank Exchange. Andrade Decl. at ¶ 21.

5 The government's allegations that no development was occurring or had occurred are thus
 6 demonstrably false, as are the allegations that statements made regarding the development status
 7 of AML Bitcoin were fraudulent. The Complaint alleges that I and J.D. both made fraudulent
 8 statements to VICTIM ONE that that AML Bitcoin was under development and near launch, when
 9 development was minimal and not progressing at the time. Complaint at ¶¶ 11, 16. As discussed
 10 above, the cryptocurrency was under development, and NAC had made meaningful progress
 11 towards developing AML Bitcoin, resulting in public listings of AML Bitcoin Tokens back in
 12 2018 and the listing of the AML Bitcoin on June 12, 2020.

13 For that matter, the specific allegation of paragraph 16 of the Complaint that I and NAC
 14 have "not made any meaningful progress towards developing AtenCoin, AML Bitcoin, or ABTC,"
 15 is so clearly wrong that it demonstrates the government could not possibly have made a reasonable
 16 inquiry into the allegation. NAC's White Paper for AML Bitcoin, dated October 4, 2017, and
 17 publicly available on NAC's website at <https://amlbitcoin.com/white-paper/>, explains that Aten
 18 Coin launched on September 21, 2015, and about 9 million Aten Coins were sold. Andrade Decl.,
 19 Ex. 4 at 2. Since 2018, the government has proof the Aten Coin was a legitimate project.

20 One alleged false statement in the Complaint is that I represented that "the launch of the
 21 cryptocurrency was months away." Complaint at ¶ 11. At no point in January 2018 (the time of
 22 Boyer's investment into Dillman's fund), did I ever represent to anyone that the full-featured
 23 AML Bitcoin launch would be months away. I did, however, state that we were "months" away
 24 from being able to begin testing of the AML Bitcoin. Andrade Decl. at ¶ 15. NAC did issue press
 25 releases in December 2017 that AML Bitcoin Token's listing on HitBTC, one of the world's
 26 largest digital currency exchanges, was months away, based on communications with HitBTC
 27 indicating that it would be listed in January 2018. Andrade Decl., Ex. 7. HitBTC backed away
 28 from the listing at that time for reasons outside NAC's control, but did eventually list AML

1 Bitcoin Tokens in September 2018. Andrade Decl., Ex. 8. There was no fraudulent statement or
 2 scheme to defraud, only normal adverse events, many of which are often beyond one's control,
 3 that can affect any new business.

4 2. **The allegedly fraudulent statements regarding the use of VICTIM ONE's**
 5 **funds are disproven by the contracts governing his AML Bitcoin Token**
 6 **purchases.**

7 In order to access NAC's website or purchase AML Bitcoin Tokens, or download the
 8 AML Bitcoin Wallet to hold the digital currency, VICTIM ONE/Boyer had to read and agree to
 9 the site's Terms and Conditions and sign a Purchase Agreement. Dkt. No. 18, Exs. J, N. The
 10 Terms and Conditions explain clearly that AML Bitcoin and AML Bitcoin Tokens are unsecured
 11 cyber currencies, not investments, securities, debt instrument, or any other form of asset that
 12 would entitle VICTIM ONE to have a say in how his funds were used. Dkt. No. 18, Ex. J at ¶¶ 10-
 13 18. The same Terms and Conditions require a user to agree that "[i]n making Your purchase of
 14 AML BitCoins and/or AML BitCoin Tokens You are and have relied solely upon Your own
 15 judgment, belief and knowledge as to the nature of the currency and the Cybercoin,
 16 cryptocurrency, or digital market and industry and You are not relying on any statements made by
 17 NAC, or any of its agents or representatives or on any of its advertising or marketing materials, or
 18 any representation or statement made on any NAC Website." *Id.* at ¶ 41. The Purchase Agreement
 19 that Boyer signed includes the same provisions. Andrade Decl., Ex. 17 at ¶¶ 3.j-3.r.

20 VICTIM ONE/Boyer, therefore, could not possibly have been defrauded by being told
 21 orally (allegedly by J.D./Dillman) that that his funds would be used to further AML Bitcoin's
 22 development as alleged by Paragraph 11 of the Complaint. Under Nevada law, which governs the
 23 Purchase Agreements of AML Bitcoin Tokens (*See* Andrade Decl., Ex. 17 at ¶ 13), claims for
 24 fraudulent inducement cannot be based on an alleged fraud that conflicts with the contract's
 25 express terms, "as the terms of the contract are the embodiment of all oral negotiations and
 26 stipulations." *Road & Highway Builders v. N. Nev. Rebar*, 284 P.3d 377, 381 (Nev. 2012). If
 27 Boyer believed that by purchasing AML Bitcoin Tokens, he was investing in AML Bitcoin's
 28 development, the contracts he signed to purchase AML Bitcoin Tokens should have informed him

1 otherwise. As a matter of law, there can be no fraud based on Dillman's alleged statement
 2 suggesting Boyer's purchase was an investment, when Boyer signed contracts clearly stating that
 3 it was not.

4 Nevertheless, even if Boyer failed to read the contract before signing it, my actions upon
 5 realizing what J.D. had done make it clear that there was no scheme to defraud. As stated in the
 6 affidavit from my compliance attorney, he reached out to Boyer to determine if Dillman had made
 7 statements suggesting that AML Bitcoin Tokens were an investment or security, and offered to
 8 refund his tokens upon confirming if there had been a possible misunderstanding between Boyer
 9 and Block Bits Capital. Andrade Decl. at ¶ 35. There can be no "scheme to defraud" where I
 10 offered to refund Boyer's money as soon as I learned there was even a possibility that Dillman had
 11 allegedly defrauded Boyer. Furthermore, there can be no scheme to defraud when I tried to reach
 12 out to him, but was prevented from communicating with Boyer by Dillman and Mata.

13 3. **The allegedly fraudulent statements made regarding business arrangements**
 14 **with governments and ports were true to my knowledge, not fraudulent.**

15 In 2017 and 2018, NAC was involved in active discussions with governments and ports
 16 regarding the use of NAC's secure blockchain technology. For example, on April 27, 2018, I, J.D.,
 17 and Richard Naimer (the CEO of the digital identification company with which NAC funded and
 18 worked on the biometric identification feature) met with Leslie Katz, Elaine Forbes, and Byron
 19 Rhett, the Commissioner, Executive Director, and Chief Operating Office, respectively, of the Port
 20 of San Francisco. Andrade Decl., Ex. 27. At that meeting, we discussed potential implementation
 21 of blockchain based identification and tracking for passengers and cargo, use of CrossVerify for
 22 the port's Transportation Worker Identification Credential, and adoption of CrossVerify by cruise
 23 ship operators that could be integrated with immigration and security authorities. *Id.* We discussed
 24 how the AML Bitcoin could be of assistance to the port. Katz had worked with me, J.D., and now-
 25 infamous lobbyist Jack Abramoff extensively to introduce NAC to United States and foreign
 26 government officials who might be interested in using NAC's technology. As a matter of fact,
 27 Abramoff even put us in touch with high ranking people at the Department of Treasury.

1 Therefore, the alleged “false statements regarding business arrangements that [I] and
 2 [my]associates had purportedly made with government agencies and ports,” without more detail,
 3 lack any evidentiary basis. NAC had business arrangements with U.S. and foreign government
 4 agencies and ports in January 2018. Absent any greater detail, the allegation that general
 5 statements regarding business arrangements between NAC and government agencies and ports
 6 were false lacks any evidentiary basis. We never told anyone that the deals were finalized, only
 7 that we were working towards a contract until the government stepped in and sabotaged it.
 8 Additionally, until Jack Abramoff pulled the plug on everything. Again, these allegations cannot
 9 support a scheme to defraud.

10 In sum, the government cannot possibly have an evidentiary basis, formed after an inquiry
 11 reasonable under circumstances, to believe that any of the allegedly false statements contained in
 12 the Complaint were in fact false or part of a scheme to defraud. Without fraudulent statements,
 13 there is no evidentiary basis for the government’s allegations of wire fraud or money laundering
 14 predicated on that wire fraud, and the Complaint is baseless.

15 **B. There is no evidentiary basis specifically for any scheme to defraud VICTIM ONE**
 16 **based on undisputed evidence that has been known to the government.**

17 “[T]he crime of wire fraud requires the specific intent to utilize deception to deprive the
 18 victim of money or property, i.e., to cheat the victim.” *United States v. Miller*, 953 F.3d 1095,
 19 1099 (9th Cir. 2020). The only evidence in this case shows plainly that I had no intent to cheat
 20 VICTIM ONE/Boyer with respect to his purchase of AML Bitcoin Tokens. Dillman’s alleged
 21 actions were not mine. We made various attempts to contact him and he was told not to contact us.

22 I never spoke directly to Boyer regarding his initial purchase of AML Bitcoin Tokens. I
 23 never knew about the company Block Bits AML Holdings (the equity fund) which both J.D. and
 24 Boyer were a part of until long after Block Bits AML Holdings made its purchases. Andrade Decl.
 25 at ¶¶ 36, 43. Nor did I authorize Dillman to make any statement to induce Boyer or anyone to
 26 purchase AML Bitcoin Tokens; Dillman’s only role at NAC concerned general business
 27 development, not sale of AML Bitcoin Tokens. Andrade Decl. at ¶ 23, Ex. 10.

1 As soon as I learned that there was a possibility that some purchasers of AML Bitcoin
2 Tokens may have been misled by Dillman and his partner David Mata, my compliance attorney
3 Chris Ray and I immediately tried to contact Boyer. Andrade Decl., Ex. 13. Ray personally called
4 every purchaser of AML Bitcoin Tokens to ask a series of questions regarding the nature of the
5 Tokens, and ensured that each understood that the Tokens were a medium of exchange, not the
6 final product that would feature anti-money-laundering and know-your-customer features, and
7 were not tied to any physical, financial, or other asset and did not constitute an investment or
8 security. *Id.* at ¶ 5. Upon learning that Block Bits had misled one purchaser, Daniel Aharanoff in
9 October and November of 2018, NAC immediately offered to refund Aharanoff's purchase and
10 investigated further into other Block Bits brokered purchases. *Id.* at ¶ 7. Aharanoff was provided
11 with the correct information and decided against a refund. Ray then attempted to reach out to
12 Boyer repeatedly in November and December 2018, but Boyer never answered his calls—and as it
13 turned out, Dillman had instructed Boyer to not speak to Ray. *Id.* at ¶ 9; Dkt. No. 18, Ex. O. I
14 informed Mata and Dillman that because Block Bits had apparently made false representations to
15 Boyer, he was entitled to a full refund for his direct purchases. Andrade Decl., Ex. 20. But Mata
16 had informed me that because he and Dillman had bought out Boyer's Tokens, there was nothing
17 to refund.

18 These communications refute any allegation by the Government of a specific intent to
19 deceive. A person who intended to cheat VICTIM ONE/Boyer would have lied to him initially,
20 then refused to offer any refund or attempt to clarify any miscommunication. I did the exact
21 opposite; I never lied to Boyer, and as soon as I found out his purchases may have been induced
22 by false statements from his apparent partners at Block Bits AML Holdings, I told Dillman and
23 David Mata that he may need to be refunded, and my compliance attorney and I tried to contact
24 him. It is not our fault that he ignored us and according to his own admissions, Dillman told him to
25 ignore us. We made multiple attempts to reach Boyer knowing Dillman and his partner David
26 Mata told us he was bought out already. It is Boyer's own fault, or at most Dillman's, that Boyer
27 sold his tokens to Dillman and totally ignored me during that period.

28

1 If the government's theory is that Block Bits defrauded Boyer rather than NAC, the
 2 government is also well aware that I was not partners with Block Bits, Dillman, Mata, or
 3 Abramoff. The government has copies of correspondence between these parties and myself where
 4 they invited me to join their organization, including buying into Block Bits Capital because they
 5 believed in the longevity of my digital currency. Andrade Decl., Ex. 15. However, the government
 6 is also aware that I turned them down repeatedly, never joined their company, and never created
 7 any type of joint venture. Andrade Decl. at ¶ 29.

8 **C. There is no evidentiary basis for the Complaint's allegations that the Defendant**
 9 **Property was purchased with proceeds from fraud, or as part of a money laundering**
 10 **scheme.**

11 None of the transfers of funds alleged in the Complaint were illegal. VICTIM ONE
 12 deposited \$1,105,000 from his personal and trust bank accounts into the Block Bits Capital
 13 account in January 2018 and he had an agreement with a different company J.D. controlled called
 14 Block Bits AML Holdings. Complaint at ¶ 10. Block Bits used that money to purchase AML
 15 Bitcoin Tokens, and made that purchase by transferring the money to the "DSA account."
 16 Complaint at ¶ 12. The "DSA account" is an account named "David Salmon & Associates, Inc.
 17 Client Trust Account for NAC Foundation;" it is an attorney-client trust account that was used to
 18 hold money received from thousands of AML Bitcoin Token purchasers and it was held in his
 19 escrow pending the tokens holders actually receiving what they paid for. This means David
 20 Salmon would not release any of the funding that came in online until he received confirmation
 21 from a CPA that the purchaser had received their tokens. During the ICO, there were thousands of
 22 transactions. Andrade Decl., ¶ 27. Once the purchases cleared, the money was transferred out of
 23 escrow—a transfer that I had no authority to approve, and the Complaint notably does not allege
 24 that I had any authority to approve—into NAC's payroll account only after the CPA confirmed
 25 with the attorney that the people who purchased the digital currency indeed received what they
 26 paid for. Andrade Decl. at ¶ 27, Ex. 13; Complaint at ¶ 12. From there, NAC paid me for my
 27 services as owner and CEO of NAC by transferring money—not VICTIM ONE's money
 28

1 specifically—to Fintech Fund Account and then to my personal account to pay for the company’s
2 past debts to me.

3 The government cannot plausibly claim that its allegation of money laundering under 18
4 U.S.C. § 1956(a)(1)(B)(i) is warranted by existing law or a nonfrivolous extension of existing law,
5 or that the factual allegations supporting a claim for money laundering have any evidentiary basis.
6 To prove a claim for money laundering, the government must prove four elements: (1) that I
7 knowingly conducted a financial transaction; (2) that I **must know** that the transaction involved
8 property which represented the proceeds of some form of **unlawful activity**; (3) the transaction
9 involved property which was in fact the proceeds of unlawful activity (here, wire fraud); and (4) I
10 engaged in the transaction with the intent to **conceal or disguise** the nature, location, source,
11 ownership, or control of property which was proceeds from the wire fraud. *See United States v.*
12 *Knapp*, 120 F.3d 928, 931 (9th Cir. 1997) (emphasis added). As discussed above, the evidence
13 available clearly shows that I did not obtain VICTIM ONE/Boyer’s payments through wire fraud.
14 The evidence also shows that even if J.D./Dillman did fraudulently induce VICTIM ONE to make
15 any payments, I did not know that any of those payments were obtained through fraud (because to
16 the extent any fraud occurred, it was done by Dillman without my knowledge, and I offered to
17 refund to Boyer any money obtained as a result of Dillman’s misconduct when it came to the
18 direct purchases in which Block Bits Capital brokered with myself). I tried along with my
19 compliance attorney to contact Boyer and he willfully ignored us. Boyer admitted that he was told
20 by Dillman not to contact us and we were told not to contact him even though we still made
21 various calls and email attempts to. But even if the money had been the proceeds of wire fraud,
22 nothing in the Complaint suggests that any of the transactions alleged in paragraphs 10-15 of the
23 Complaint were intended to conceal or disguise those proceeds. All the transactions went through
24 ordinary commercial banks, and followed the ordinary course of how money flows from sales
25 receipts to services provided to profits paid to an owner as in any business.

26 The government also cannot plausibly claim that the defendant property is derived from
27 proceeds traceable to a violation of the wire fraud statute under 18 U.S.C. § 981(a)(1)(C). The
28 evidence shows that Boyer received valuable AML Bitcoin Tokens in exchange for his payment,

1 and so the proceeds from his payments could not be proceeds of wire fraud. Boyer sold all his
 2 AML Bitcoin Tokens to Dillman in or around December 2018, about 2.56 million, for a total price
 3 of about \$2.99 million according the lawsuit filed by Boyer. Boyer now has a default judgment
 4 against J.D. for the \$2.99 million he was never paid plus interests and costs, a total of about \$3.08
 5 million. Andrade Decl., Ex. 23. Boyer received, or was supposed to receive, value for his AML
 6 Bitcoin Tokens, and so was not a victim of any of the alleged fraudulent acts in the Complaint. He
 7 may have been a victim of Dillman's fraud in December 2018, but nothing in the Complaint
 8 alleges that I or my property were involved in that fraud. The government cannot confiscate my
 9 property based on J.D./Dillman's defrauding of VICTIM ONE/Boyer in connection with an AML
 10 Bitcoin Token transaction downstream of Boyer's purchase of legitimate AML Bitcoin Tokens in
 11 January 2018.

12 **D. The government should be sanctioned, and the appropriate sanction is dismissal with**
 13 **prejudice, enjoining the government from filing additional actions against me without**
 14 **leave of court, and an appropriate monetary award.**

15 As explained above, all the evidence in the record shows that AML Bitcoin is a legitimate
 16 business, that AML Bitcoin was not involved in any scheme to defraud VICTIM ONE or anyone
 17 else, and that the only way in which VICTIM ONE may have been a victim was in relation to his
 18 December 2018 transaction with J.D. for which he has already obtained a default judgment.

19 The government knew all this information, and still filed its Complaint seeking forfeiture
 20 of my personal residence in the middle of the COVID19 pandemic. Nothing in the Complaint
 21 explains why the government waited until March 12, 2020, over two years, to attempt to seek civil
 22 forfeiture. All the alleged events in the Complaint took place between January 12, 2018, when
 23 VICTIM ONE purchased his AML Bitcoin Tokens, and May 10, 2018, when I purchased my
 24 home. Complaint at ¶¶ 10-15. Going outside the complaint, VICTIM ONE/Boyer entered into his
 25 transaction with J.D./Dillman in December 2018, and my compliance attorney and I tried to
 26 contact VICTIM ONE/Boyer to see if he was misled by Block Bits Capital between December
 27 2018 and May 2019. The government knew all the relevant facts, knew it had no case, but still
 28 waited until the moment it could most damage me—in the middle of a national panic, right as the

1 full-featured AML Bitcoin was about to launch. Additionally the government seized my financial
2 accounts and more on another sworn affidavit, telling the U.S Magistrate in Texas that the whole
3 AML Bitcoin project was a fraud and as result were able to freeze up to millions of dollars and not
4 just the amounts stated on the complaint without providing any explanation or court documents for
5 the seizure. Andrade Decl., Ex. 31.

6 The government has no excuse for its factual inaccuracies. All the information regarding
7 the launch of Aten Coin, the ICO of AML Bitcoin Tokens, and the public's participation in the
8 testing in 2019 up to April of 2020 until the full-featured AML Bitcoin launched. This has been
9 publicly available at the AML Bitcoin website and NAC's YouTube page. The terms and
10 conditions for AML Bitcoin Token sales that tell purchasers exactly what they are purchasing are
11 publicly available on the AML Bitcoin website. The government was provided with over 80,000
12 documents in response to a subpoena, which caused me to incur over \$300,000 in attorney's fees.
13 Andrade Decl. at ¶ 17. The Boyer-Dillman lawsuit was a matter of public record in the Superior
14 Court of California, County of San Francisco, and nevertheless the government would have
15 learned of the lawsuit through Boyer and Dillman who presumably are cooperating. VICTIM
16 ONE/Boyer has admitted that he had been in contact with the government on multiple occasions.
17 The government surely knew about the Boyer-Dillman lawsuit. No reasonable inquiry under the
18 circumstances could have allowed the government to proceed with the Complaint it has filed here.

19 Beyond the Complaint, the government has now moved to stay this proceeding indefinitely
20 based on *in camera*, *ex parte* evidence it refuses to allow me to see. Dkt. No. 26. As explained
21 above, I am fully familiar with the evidence regarding the allegations of the Complaint. There is
22 no reasonable explanation for the government's attempt to stay other than to continue to interfere
23 with my civil rights and my business without any meaningful oversight, without having to prove
24 its case or even provide due process.

25 The appropriate sanction is dismissal with prejudice, together with an order enjoining
26 further criminal or civil action against me without leave of court, and at the absolute minimum
27 some amount of monetary sanction to compensate me for having to defend against this frivolous
28 forfeiture action.. "Rule 11 sanctions are designed to deter, not compensate." *Willis v. City of*

1 *Oakland*, 231 F.R.D. 597, 600 (N.D. Cal. 2005). While being forced to pay for the costs of
 2 fighting this frivolous complaint is part of an appropriate sanction, *see id.*, the government as
 3 plaintiff will not be deterred by having to pay a few thousand, or even a few hundred thousand
 4 dollars. Dismissal with prejudice would protect this property, but it would still allow the
 5 government to bring other frivolous civil or criminal charges, or apply for frivolous search and
 6 seizure warrants, in retaliation. The Court should therefore fashion an additional sanction,
 7 admittedly fairly unique to this case, of exercising oversight over any further civil or criminal
 8 investigation into me or AML Bitcoin to enforce the Fourth and Fifth Amendment guarantees that
 9 no warrants shall issue against me but upon probable cause, and that I shall not be deprived of life,
 10 liberty, or property, without due process of law.

11 CONCLUSION

12 The government has no factual or legal basis to file its Complaint. It knows, or should have
 13 known, that the AML Bitcoin is a legitimate business based on patented technology. The
 14 government knows that “VICTIM ONE,” Benjamin Boyer, was actually only a victim of “JD,”
 15 Dillman’s breach of the contract between them in December 2018, and not a victim of anything
 16 done by me or my company. The government should be sanctioned for filing its baseless and
 17 retaliatory complaint, and the most appropriate sanction would require the government to seek
 18 leave of court before taking any further civil or criminal action against me or my company. I
 19 therefore respectfully request that the Court grant my motion for sanctions under Fed. R. Civ. P.
 20 11, and enter an appropriate order dismissing the complaint with prejudice, awarding me
 21 appropriate monetary sanctions, and enjoining the government from filing other search or seizure
 22 warrants, civil complaints, or criminal charges without leave of court.

23 Dated: June 13, 2020

Respectfully submitted,

26 By: R. Marcus Andrade
 27 Rowland Marcus Andrade
 28 In Pro Se and Claimant